

### **REMARKS**

This responds to the Office Action dated May 6, 2009.

Claims 1 and 24 are amended, claims 11-13 are canceled, and no claims are added; as a result, claims 1-10 and 14-24, 26-35 and 38 are now pending in this application.

Claim 24 is amended to recite a connector sized and shaped for electrically and mechanically connecting the at least one impedance monitoring conductive sleeve with an impedance monitoring device. The amendment does not include new matter and is supported in the specification, for example, at page 14, lines 3-9.

Applicant notes that the Office Action relies entirely on the Written Description requirement to support rejections of claims 1-10, 24, 26-35 and 38 without providing other substantive grounds for rejection. MPEP § 2163 states, “where Office personnel establish a prima facie case of lack of written description for a claim, a thorough review of the prior art and *examination on the merits for compliance with the other statutory requirements, including those of 35 U.S.C. 101, 102, 103, and 112*, is to be conducted prior to completing an Office action which includes a rejection for lack of written description.” (Emphasis added). Barring claims 1-10, 24, 26-35 being allowable but for the Written Description rejections, Applicant submits claims 1-10, 24, 26-35 were not examined on the merits for compliance with other statutory requirements as required by MPEP 2163. If the next office communication does not result in the allowance of all pending claims, Applicant respectfully requests finality of the next office communication be withheld because Applicant has not yet had a full and fair opportunity to respond to any substantive rejections.

### **Interview Summary**

Applicant's representative greatly appreciates the courtesy extended by Examiner Stocklosa in the telephonic interview conducted on August 5, 2009. In the interview the § 112 rejections, the claims and the specification were discussed. The Examiner confirmed that the claims as amended obviate the grounds for the § 112 rejections and would accordingly reexamine the application and reassess the § 112 rejections. Applicant's representative further

directed the Examiner to language in the specification showing the conductive sleeve is electrically isolated from the environment exterior to the lead body to perform the impedance monitoring function of the conductive sleeve. For example, see page 7, line 23 to page 8, line 2. Applicant's representative additionally directs the Examiner to specification passages at page 12, line 20 to page 13, line 22 for further discussion of the function of the conductive sleeve with regard to electrical isolation from the environment exterior to the lead body.

*Claim Objections*

Claim 1 was objected to because of informalities. Appropriate correction has been made herewith.

Reconsideration and allowance of claim 1 are respectfully requested.

*§ 112 Rejection of the Claims*

Claims 1-10, 24, 26-35, and 38 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. Applicant has amended claims 1 and 24 to remove the recitations cited as the basis for the § 112 rejection in the Office Action thereby obviating these rejections. Claims 2-10, 26-35 and 38 depend from claims 1 and 24, respectively, and thereby include their respective limitations.

*§ 102 Rejection of the Claims*

Claims 11-13 were rejected under 35 U.S.C. § 102(b) as being anticipated by Webster (U.S. 5,569,220). Applicant has canceled claims 11-13 thereby making these rejections moot.

**CONCLUSION**


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2117 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402--0938  
(612) 371-2117

Date August 6, 2009

By   
Thomas C. Obermark  
Reg. No. 55,506

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of August, 2009.

Nicole Jack

Name

/Nicole Jack/  
Signature